

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE:	:	CHAPTER THIRTEEN
	:	
RONALD L. HARKLEROAD	:	BANKRUPTCY NO.: 4-17-bk-03631-JJT
COLLEEN M. HARKLEROAD,	:	
	:	
DEBTORS	:	
	:	
RONALD L. HARKLEROAD	:	{ <b><u>Nature of Proceeding</u></b> : Motion for Determina-
COLLEEN M. HARKLEROAD	:	tion of Secured Status/Valuation of Security
	:	(Doc. #21) AND Objection to Mortgage
MOVANTS/OBJECTORS	:	Payment Change (#31)}
	:	
vs.	:	
	:	
USDA - RURAL HOUSING SERVICE,	:	
	:	
RESPONDENT/CLAIMANT	:	

## **OPINION**

Pending for disposition is Debtors' Motion for Determination of Secured Status (Doc. #21) and Objection to Mortgage Payment Change (Doc. #31). Both matters are filed against USDA – Rural Housing Service, Debtors' mortgagee. The Motion attempts to strip down Debtors' mortgage to the USDA from the approximate \$160,000 balance to \$54,000, being the alleged value of the real estate collateral. No response was filed to the Motion, yet no request for default was made by the Debtors.

In September of 2018, USDA filed a Notice of Mortgage Payment Change to its filed Proof of Claim, to which the Debtors then objected. The Court set a hearing on that issue for November 2, 2018. Only the Debtors' counsel appeared. The Court agreed to review the record and issue a dispositive order on the pending matters.

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There is a confirmed Plan which contains the following language:

Debtors shall file a motion for determination of secured status for real estate based on the current appraisal of \$54,000.00 and shall seek a mortgage modification from USDA in the amount set forth in the appraisal, for 15 years at an interest rate of 5.5%. Debtors shall pay the proposed monthly mortgage payment of \$441.00 (per amortization) plus an estimated escrow for real estate taxes of \$211.31 for a total of \$652.31 to the Trustee, pending loan modification. Upon determination of a loan modification, Debtors shall file an amended plan.

First Amended Chapter 13 Plan, Doc. #22, page 8

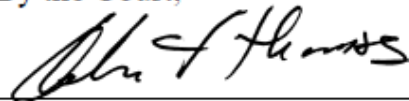
While there was a Motion for Determination of Secured Status filed January 5, 2018, it appears that it was never properly served on the USDA, an agency of the United States, pursuant to Federal Rule of Bankruptcy Procedure 7004(i). In the absence of that service, the lack of a response to that Motion is of no moment. The Debtors are directed, within 14 days, to properly serve that Motion, together with a notice to respond or suffer default.

Moreover, the Debtors hint that somehow the Motion to Determine Secured Status may modify the terms of the mortgage unrelated to the balance. On the contrary, the confirmed Plan is clear the terms of the mortgage are to be renegotiated with the secured creditor.

As to the pending Objection to Mortgage Payment Change, I find no support for that objection and will overrule it.

My Order will follow.

By the Court,



John J. Thomas, Bankruptcy Judge (CMP)

Date: November 30, 2018